

FCC MAIL SECTION

Federal Communications Commission

DA 00-1206

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 99-279
Table of Allotments,)	RM-9716
FM Broadcast Stations.)	
(Greeley and Broomfield, Colorado))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: May 24, 2000

Released: June 2, 2000

By the Chief, Allocations Branch:

1. The Commission considers herein the Notice of Proposed Rule Making ("Notice"), (DA 99-1850) released September 10, 1999, issued in response to a petition filed on behalf of Chancellor Media/Shamrock Radio, Licenses, L.L.C. ("petitioner"), for Station KDJM, Channel 223C1, Greeley, Colorado,¹ proposing the reallocation of Channel 223C1 to Broomfield, Colorado, as that community's first local aural transmission service, and modification of its license accordingly. Petitioner filed supporting comments in response to the Notice. No other comments were received.

2. As stated in the Notice, petitioner's proposal, filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, would reallocate Channel 223C1 from Greeley (pop. 60,536),² an urbanized area as defined by the U.S. Census, to Broomfield (pop. 24,638), located partially within the Denver urbanized area.³ The Notice advised that petitioner's requested reallocation, which is mutually exclusive with its existing authorization at Greeley, would enable it to provide a first local aural transmission service to Broomfield and would not leave Greeley devoid of local broadcast service.⁴ Moreover, as Station KDJM presently provides a 70 dBu signal over 71.9% of the Denver Urbanized Area (which will increase to approximately 84% upon reallocation), and 100% of the Boulder Urbanized Area, a Tuck analysis was not required to illustrate Broomfield's independence from the urbanized areas.⁵ See Boulder and Lafayette, Colorado, 12 FCC Rcd 583 (1997); and East Los Angeles, et al., California, 10 FCC Rcd 2854 (1995).

3. Although petitioner advised that the proposed use of Channel 223C1 at Broomfield is

¹ Commission records reflect that AMFM Radio Licenses, L.L.C. is the current licensee of Channel 223C1 at Greeley. Additionally, the call letters were changed from KVOD-FM, effective July 1, 1999.

² Population figures given herein were taken from the 1990 U.S. Census Reports.

³ See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990).

⁴ Stations KUNC-FM, Channel 218C1, KGLL-FM, Channel 241C1, KFKA-AM and KGRE-AM are licensed at Greeley.

⁵ See Huntington Broadcasting Co. v. F.C.C., 192 F.2d 33 (D.C. Cir. 1951), RKO General, Inc. ("KFRC"), 5 FCC Rcd 3222 (1990), and Faye and Richard Tuck ("Tuck"), 3 FCC Rcd 5374 (1988).

consistent with the technical requirements of Section 73.207(b) of the Commission's Rules as no change in transmitter site is necessary, it acknowledged that its authorized site is short-spaced to the licensed site of Station KJMN(FM), Channel 221C2, Castle Rock, Colorado, which was authorized pursuant to Section 73.215 of the Commission's Rules. In acknowledgement of the Commission's policy against the use of contour protection to create short-spaced allotments at the rule making level, petitioner provided an alternate, fully-spaced allotment reference site for proposed Channel 223C1 to comply with the minimum distance separation requirements to Station KJMN(FM). Specifically, petitioner specified a site located 15 kilometers from Broomfield at coordinates 40-03-15 NL and 105-04-12WL. As the alternate site requires a change from the authorized site for Station KDJM, petitioner was requested to provide a gain and loss study for Channel 223C1 at Broomfield.

4. In responsive comments to the Notice it was determined that based upon the petitioner's alternate site, the loss area for Station KDJM at Greeley contains 4,478 people in an area of 1,972 square kilometers. Approximately 97% of the loss area will remain well served by at least five fulltime reception services. Only a small area consisting of 63 square kilometers containing 62 persons will be left with four fulltime services. No white or gray areas will be created at Greeley.⁶ The gain area of Broomfield encompasses 25,889 persons in an area of 3,706 square kilometers. Approximately 81% of the gain area encompassing 3,013 square kilometers presently receives fulltime reception service from at least five radio stations. The population of the well served portion of the gain area consists of 23,675 persons. Additionally, approximately 19% of the gain area (693 square kilometers containing 2,214 persons) is presently underserved. Therefore, the proposed allotment of Channel 223C1 at Broomfield would result in a fourth fulltime service to nearly one-half of the underserved area, and a fifth fulltime service to the remaining half, resulting in a net gain in service to underserved areas to 2,152 people. No white or gray areas will be served.

5. Based upon the above, we believe the public interest would be served by reallocating Channel 223C1 from Greeley to Broomfield, Colorado, as it would result in a preferential arrangement of allotments consistent with the Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).⁷ In making our comparison the first two allotment priorities are not applicable here. Rather, Broomfield will be provided with its first local aural transmission service (priority (3)), and is favored over retaining Channel 223C1 at Greeley which will continue to receive local transmission service (priority (4)) provided by Stations KUNC-FM, Channel 218C1, KGLL-FM, Channel 241C1, KFKA-AM and KGRE-AM. In light of the foregoing, and in accordance with the provision of Section 1.420(i) of the Commission's Rules, we will modify the license of Station KDJM to specify Broomfield, Colorado, as its community of license.

6. Channel 223C1 can be allotted to Broomfield, Colorado, consistent with the minimum

⁶ For FM allotment purposes, a white area is a geographical area that is not served by any full-time aural service and a gray area is one that is served by only one full-time aural service.

⁷ The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight is afforded priorities (2) and (3).]

distance separation requirements set forth in Section 73.207(b)(1) of the Commission's Rules, at the petitioner's specified allotment reference site located 15.5 kilometers (9.6 miles) north of the community at coordinates 40-03-15 NL and 105-04-12 WL.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective July 17, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Broomfield, Colorado	223C1
Greeley, Colorado	241C1

8. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the authorization of Chancellor Media/Shamrock Radio, Licenses L.L.C. (AMFM Radio Licenses, Inc.), for Station KDJM, IS MODIFIED to specify operation on Channel 223C1 at Broomfield, Colorado, in lieu of Greeley, Colorado, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

9. Pursuant to Commission Rule Section 1.1104(1)(k) and (3)(m), any party seeking a change in community of license of a TV or FM allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Chancellor Media/Shamrock Radio, Licensees L.L.C. (AMFM Radio Licenses, L.L.C.), licensee of Station KDJM, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the change in community of license at Broomfield, Colorado.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau**